

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Mleczkowski	Team: Squad #15	CCRB Case #: 201410542	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/16/2014 8:05 PM	Location of Incident: East 174th Street and Saint Lawrence Avenue	Precinct: 43	18 Mo. SOL 3/16/2016	EO SOL 3/16/2016	
Date/Time CV Reported Tue, 10/14/2014 2:52 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 10/14/2014 2:52 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Angel Vazquez	00885	949761	043 PCT
2. POM Jamie Roscino	20051	946195	043 PCT
3. POM Ralph Gurr	02042	944625	043 PCT
4. LT Christophe Zaffiro	00000	933502	043 PCT
5. An officer			Unknown
6. Officers			043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ralph Tavella	01760	924541	043 PCT
2. LT Frederick Reyes	00000	927805	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Jamie Roscino	Abuse: PO Jamie Roscino stopped § 87(2)(b)	
B.POM Ralph Gurr	Abuse: PO Ralph Gurr questioned § 87(2)(b)	
C.POM Jamie Roscino	Force: PO Jamie Roscino used physical force against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)	
E.POM Jamie Roscino	Force: PO Jamie Roscino used a chokehold against § 87(2)(b)	
F.POM Jamie Roscino	Force: PO Jamie Roscino restricted § 87(2)(b)'s breathing.	
G.POM Jamie Roscino	Force: PO Jamie Roscino struck § 87(2)(b) on the neck with an asp.	
H.POM Angel Vazquez	Force: PO Angel Vazquez struck § 87(2)(b) on the neck with an asp.	
I.POM Ralph Gurr	Force: PO Ralph Gurr struck § 87(2)(b) on the legs with an asp.	
J. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

§ 87(2)(b) s mother, filed this complaint with the City of New York’s 311 Customer Service Center via an online complaint form on October 14, 2014, nearly one month after the incident date.

On September 16, 2014, at 8:05 p.m., § 87(2)(b) and his cousin § 87(2)(b) stood in front of Saint Lawrence Triangle, a park located at the Cross Bronx Expressway Service Road in the Bronx. § 87(2)(b) explicitly indicated that § 87(2)(b) is § 87(2)(b) s friend, not his cousin. § 87(2)(b) smoked a Black & Mild cigar when a marked patrol car, containing three officers identified via investigation as PO Angel Vazquez, PO Jamie Roscino and PO Ralph Gurr of the 43rd Precinct, pulled up alongside them and all of the officers exited.

PO Roscino approached § 87(2)(b) and asked him “What’s that smell over here?” (**Allegation A**) According to § 87(2)(b) PO Gurr and PO Vazquez requested § 87(2)(b) identification (**Allegation B**). As PO Roscino touched § 87(2)(b) s right pants pocket, § 87(2)(b) backpedaled, prompting PO Roscino to allegedly punch § 87(2)(b) in the face (**Allegation C**). § 87(2)(b) then held onto a nearby fence and PO Roscino allegedly hit § 87(2)(b) in the hand with either his hand or asp in the arm, near his inner elbow (**Allegation D**). The three officers brought § 87(2)(b) to the ground (within **Allegation D**), where PO Roscino allegedly wrapped his arm around § 87(2)(b) s neck in a “chokehold,” which restricted his breathing (**Allegations E and F**). PO Roscino allegedly put his asp on the back of § 87(2)(b) s neck and struck his neck with it numerous times (**Allegation G**). PO Vazquez allegedly used his asp to impact § 87(2)(b) s back (**Allegation H**) and PO Gurr used his to impact § 87(2)(b) s legs (**Allegation I**).

An officer who remains unidentified (PO1) allegedly said to § 87(2)(b) “You could breathe, you were talking you dumbass, you asshole” (**Allegation J**). Another officer who remains unidentified (PO2) allegedly placed his hands behind § 87(2)(b) s head in an arm lock, which prevented her from putting her arms down or turning her head; however this officer did not make contact with her neck (within **Allegation D**).

§ 87(2)(b) and § 87(2)(b) were ultimately handcuffed and transported to the 43rd Precinct stationhouse, where their arrests were processed. § 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b) was charged with § 87(2)(b)

This case was originally assigned to Investigator Rebecca Ho; however it was reassigned to the undersigned Case Closing Unit investigator on December 30, 2014.

Mediation, Civil and Criminal Histories

- This case was ineligible for mediation due to § 87(2)(b) and § 87(2)(b) s arrests.
- On § 87(2)(b) § 87(2)(b) filed a notice of claim with the United States District Court, Southern District of New York on her own behalf (encl. N12-N18). She sought monetary damages for the violation of her rights secured by the Fourth and Fourteenth Amendments to the United States Constitution. On February 23, 2015, the NYC Comptroller’s Office yielded negative results for a notice of claim filed by § 87(2)(b)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first complaint filed by [§ 87(2)(b)] This is the first complaint involving [§ 87(2)(b)] and [§ 87(2)(b)] (encl. B5-B7).
- PO Roscino has been a member of the service for seven years. He has no substantiated allegations [§ 87(2)(g)] [REDACTED]
- PO Vazquez has been a member of the service for four years and this is the first CCRB case filed against him (encl. B2).
- PO Gurr has been a member of the service for seven years and there are no substantiated allegations against him. [§ 87(2)(g)] [REDACTED]
- Lt. Christopher Zaffiro of the 43rd Precinct has been a member of the service for 12 years and there are no substantiated allegations against him (encl. B4). [§ 87(2)(g)] [REDACTED]

Potential Issues

- Despite that the undersigned investigator completed exhaustive contact attempts to [§ 87(2)(b)] he has not provided a formal statement to the CCRB as of the date of this report. He solely provided an unverified telephone statement on January 15, 2015.
- On January 14, 2014, Investigators Adrian Legaspi, Stanislov Sazonov, and Bernardo Gutierrez of the Agency's Field Team conducted fieldwork at the intersection of East 174th Street and Saint Lawrence Avenue, in the Bronx. However, they were unable to locate any witnesses of this incident.

Findings and Recommendations

Identification of Subject Officers

[§ 87(2)(b)] described the officer who told him, "You could breathe, you were talking you dumbass, you asshole" as an overweight man, plain clothed, wearing a Jets hat and shirt; he could not further describe him. Neither [§ 87(2)(b)] nor [§ 87(2)(b)] raised this allegation or described a similar officer. The undersigned investigator reviewed the 911 Communication CD and Event Summary generated in connection with this incident, which did not indicate that plain clothed officers responded (encl. M8-M13). PO Vazquez and PO Roscino noted that plain clothed officers responded to this incident; however they did not know to which command they were assigned. PO Gurr and Lt. Zaffiro could not recall if plain clothed officers responded. [§ 87(2)(g)]

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

Allegation A – Abuse of Authority: PO Jamie Roscino stopped § 87(2)(b)

§ 87(2)(b) stated that while § 87(2)(b) smoked Black and Mild Cigar, PO Roscino approached § 87(2)(b) and asked him, “What are you doing? What’s that smell over here?” § 87(2)(b) alleged that when he tried to explain that § 87(2)(b) was merely smoking a flavored cigar, PO Roscino then reached for § 87(2)(b)’s right pants pocket (encl. D1-D9). § 87(2)(b) stated that while PO Roscino spoke with § 87(2)(b) he spoke with PO Gurr; however he denied that they were smoking anything illegal (encl. F1).

All of the officers stated that they smelled marijuana in the immediate vicinity of § 87(2)(b) prior to exiting their vehicle. PO Roscino (encl. H1-H5) and PO Vazquez (G13-G18) stated that they observed § 87(2)(b) holding a lit, dark brown marijuana cigarette, and once § 87(2)(b) noticed the officers, he tossed the cigarette into nearby bushes. PO Gurr stated that once § 87(2)(b) sighted the officers, he threw an object, which he did not see, away from his person (encl. I1-I7).

§ 87(2)(b)’s arrest report (encl. G1-G3) notes that PO Vazquez charged him with smoking marijuana in plain view, that he discarded the marijuana and his corresponding property voucher noted that he was found with marijuana in a clear bag (encl. G11-G12). While § 87(2)(b) stated that at the incident time he had “paraphernalia” for smoking marijuana, he denied having marijuana on him. Despite searching for the cigarette that § 87(2)(b) allegedly threw, the officers never recovered it. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(g)

Allegation B- Abuse of Authority: PO Ralph Gurr questioned § 87(2)(b)

§ 87(2)(b) alleged that PO Gurr and PO Vazquez requested § 87(2)(b) identification, which he furnished. § 87(2)(b) alleged that solely PO Gurr requested his identification.

PO Vazquez and PO Roscino stated that officers did not request § 87(2)(b) identification. PO Gurr stated that he asked § 87(2)(b) for his identification because he was in a park area after dusk, which is against the law. However, PO Gurr could not recall § 87(2)(b) response and immediately thereafter he assisted PO Roscino in handcuffing § 87(2)(b) who resisted arrest.

§ 87(2)(b) missed two scheduled CCRB appointments without prior notification and has not contacted the undersigned in order to reschedule his appointment. § 87(2)(g)

Allegation C- Force: PO Jamie Roscino used physical force against § 87(2)(b)

§ 87(2)(b) alleged that once PO Roscino touched his pocket, § 87(2)(b) backpedaled and PO Roscino then punched him in the face. § 87(2)(b) could not recall what part of his face PO Roscino struck, but noted that it caused some swelling but left no visible marks. § 87(2)(b) alleged that an officer struck her son and as a result, he bled from his mouth. § 87(2)(b) was unable to describe the officer who committed this action and she did not see if § 87(2)(b) was hit with a fist or an asp. § 87(2)(b) did not mention that § 87(2)(b) bled from his mouth during the incident.

PO Roscino denied punching § 87(2)(b) in the face. PO Vazquez, PO Gurr and Lt. Zaffiro (encl. K1-K3) denied witnessing this allegation. Sgt. Tavella was not present for this portion of the incident (encl. J1-J4). All of the officers interviewed who were present for this portion of the incident indicated that officers directed § 87(2)(b) to stop resisting and place his hands behind his back, with which he did not comply. Instead, the officers indicated that § 87(2)(b) violently resisted arrest by screaming, flailing his arms and kicking the officers. They noted that § 87(2)(b) held onto a nearby fence in order to evade arrest.

According to the § 87(2)(b)'s Pre-arraignment Screening Form, completed on September 17, 2014 at by EMS at Bronx Central Booking in regards to this incident, it is noted that he had scratches to his neck and right forearm (encl. MR1). The disposition was that he did not have evidence of acute medical or mental problems. He was not diagnosed with injuries to his facial area. § 87(2)(b)'s arrest photograph, taken shortly after the incident on September 16, 2014, does not show any blood, bruising or swelling near his mouth area or any evidence of facial swelling (encl. D8).

§ 87(2)(g)

During a telephone statement that § 87(2)(b) provided to the CCRB on October 17, 2014, he alleged that PO Roscino punched him in his right cheek. During a telephone statement that § 87(2)(b) provided to the CCRB on the same date, she alleged that § 87(2)(b) was punched in the mouth. During § 87(2)(b)'s sworn statement on October 30, 2014, he alleged that PO Roscino punched him in the face; however he could not recall which part of his face this was and noted that this left no visible marks. During § 87(2)(b)'s sworn statement on the same date, she stated that an officer struck § 87(2)(b) in his mouth with caused him to bleed, however during a follow-up telephone call placed to her on January 23, 2015, she indicated that she did not know which officer did so and did not see if an officer punched him in the mouth or hit him with an asp. § 87(2)(b) did not complain to medical personnel that he was punched in the face by an officer, § 87(2)(g). His Correctional Health Services Pre-arraignment Screening Form does not list that § 87(2)(b) sustained injuries to his facial area during this incident. § 87(2)(b)'s arrest photograph, taken shortly after his arrest, does not show any sign of blood or an injury to his mouth area. § 87(2)(b) who was with the immediate vicinity of § 87(2)(b) at the time that this allegation took place, never raised this allegation in his unverified telephone statement, § 87(2)(g).

§ 87(2)(g)

Allegation D- Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)
§ 87(2)(b) alleged that PO Roscino hit him in his arm with either his asp or hand. He alleged that PO Roscino grabbed him by his shoulders as PO Vazquez grabbed him around his lower waist and threw him to the ground. § 87(2)(b) alleged that an officer, who remains unidentified, placed his hands behind her head in an arm lock, which prevented her from putting her arms down or turning her head.

Both § 87(2)(b) and § 87(2)(b) indicated that § 87(2)(b) resisted arrest and did not comply with officers' directives in order to affect his arrest. By her own admittance, § 87(2)(b) was within the immediate vicinity of § 87(2)(b) so close that she held his mouth shut, while officers attempted to arrest § 87(2)(b). All of the officers interviewed who were present for this portion of the incident indicated that officers directed § 87(2)(b) to stop resisting and place his hands behind his back, with which he did not comply. Instead, the officers indicated that § 87(2)(b) violently resisted arrest by screaming, flailing his arms and kicking the officers. They noted that § 87(2)(b) held onto a nearby fence in order to evade arrest. Additionally, the officers stated that § 87(2)(b) interfered in her son's arrest since she was in his immediate vicinity and refused to back away from him, despite their lawful directives for her to do so.

NYPD Patrol Guide Procedure 203-11 states that officers can use the minimal force necessary to effect the arrest of a violent or resisting individual (encl. A4-A5).

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation E- Force: PO Jamie Roscino used a chokehold against § 87(2)(b)

Allegation F- Force: PO Jamie Roscino restricted § 87(2)(b)'s breathing.

§ 87(2)(b) alleged that PO Roscino wrapped his arm around his neck in a "chokehold," which restricted his breathing. § 87(2)(b) and § 87(2)(b) did not raise this allegation.

PO Roscino denied this allegation. PO Gurr, PO Vazquez and Lt. Zaffiro denied witnessing this allegation.

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation G- Force: PO Jamie Roscino struck § 87(2)(b) on the neck with an asp.

Allegation H- Force: PO Angel Vazquez struck § 87(2)(b) on the back with an asp.

Allegation I- Force: PO Ralph Gurr struck § 87(2)(b) on the legs with an asp.

§ 87(2)(b) alleged that PO Roscino put his asp on the back of his neck and then struck him in his neck with the asp. § 87(2)(b) alleged that PO Vazquez struck him in his back with an asp; he additionally alleged that PO Gurr struck him in his legs with an asp. § 87(2)(b) did not allege that PO Roscino struck § 87(2)(b) with an asp. § 87(2)(b) did not raise these allegations; instead he alleged that PO Roscino struck § 87(2)(b) in his ankles with an asp.

PO Roscino denied removing his asp from his belt during this incident. PO Gurr indicated that he did not see if PO Roscino removed his asp from his belt during this incident, however he noted that he did not see PO Roscino strike § 87(2)(b) in the arm with an asp. PO Gurr added that he did not strike § 87(2)(b) in the legs with an asp. PO Vazquez indicated that he did not see any officer strike § 87(2)(b) with an asp in order to dislodge his grip from the fence, nor did he witness PO Roscino place his asp on § 87(2)(b)'s neck. PO Vazquez added that he did not strike § 87(2)(b) in the back with an asp. PO Gurr and PO Roscino indicated that they did not see PO Vazquez strike § 87(2)(b) with an asp. PO Vazquez and PO Roscino indicated that they did not see PO Gurr strike § 87(2)(b) with an asp. Lt. Zaffiro denied witnessing these allegations.

§ 87(2)(b)'s Correctional Health Services Pre-arraignment Screening Form solely notes that he had scratches on his neck and arm. § 87(2)(g)

Allegation J- Discourtesy: An officer spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that an officer, who remains unidentified, told him "You could breathe, you were talking you dumbass, you asshole." Neither § 87(2)(b) nor § 87(2)(b) raised this allegation.

All of the officers interviewed who were present for this incident indicated that they did not witness this allegation.

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

[REDACTED]

Pod: 15

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date